

# SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Cogdill Analyst: Kristina E. North Bill Number: AB 1054

Related Bills: See Prior Analysis Telephone: 845-6978 Amended Date: May 21, 2001

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Irrigation System Improvement Costs Credit/FTB Report to the Legislature Annually on Utilization of Credit

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended April 3, 2001.
- ☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended April 3, 2001.
- ☒ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 3, 2001, STILL APPLIES.
- ☒ OTHER - See comments below.

## SUMMARY

This bill would create a tax credit for 25% of the cost of a farm irrigation system improvement that results in water conservation or savings.

## SUMMARY OF AMENDMENTS

The May 21, 2001, amendments would:

- ◆ Reduce the credit percentage from 50% to 25%;
- ◆ Add a repeal date of December 1, 2006;
- ◆ Limit the credit carryover period to seven years;
- ◆ Add a \$150 per acre limitation;
- ◆ Specify that any unused credit carryover would be disallowed if the taxpayer discontinues leasing the land on which the irrigation system improvement was installed;
- ◆ Replace the term "income year" with "taxable year;" and
- ◆ Require the Franchise Tax Board, to the extent data are available, to annually report on the credit use.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

06/11/01

The May 21, 2001, amendments resolve the policy concerns regarding a repeal date and the recapture provision if a taxpayer discontinues leasing the land. The amendments also resolve the technical consideration regarding "taxable" year. Except for these changes, the new implementation concern, and the new revenue estimate, the remainder of the department's analysis of the bill as amended April 3, 2001, still applies. The remaining implementation considerations and Board position are restated below for convenience.

## **POSITION**

Pending.

## **IMPLEMENTATION CONSIDERATIONS**

As written, the limitation of "\$150 per acre" could be interpreted differently. One interpretation could be to limit the actual cost paid or incurred that is eligible to be included in the credit base to \$150 per acre multiplied by the credit percentage of 25%. This would result in a maximum credit allowed per acre of \$37.50. Alternatively, the provision could be interpreted to limit the credit amount itself to no more than \$150 per acre. Amendment 1 is attached, per the author's request, to clarify that the credit amount is limited to \$150 for each acre of land in the parcel on which the irrigation system improvement is installed.

The credit permits, but does not require, an engineer or designer to provide certification of an irrigation system improvement. It would be helpful for audit purposes if an engineer or designer were required to certify every irrigation system improvement that is eligible for the credit because the department lacks the expertise in farming or water management necessary to determine if a system meets the required criteria.

The requirement that the certifying engineer or designer be "independent of" the taxpayer is a subjective, undefined standard and may be open to interpretation. Providing an objective relationship standard would make it clear that the engineer or designer may not be an employee or otherwise related to the purchaser, seller, or manufacturer of the irrigation system improvement. The author may wish to refer to the commonly used tax concept of "related party" and provide a definition for that term to resolve this issue.

## **ECONOMIC IMPACT**

### **Tax Revenue Estimate**

The revenue analysis is estimated to impact income tax revenue as shown in the following:

Revenue Impact of AB 1054 Taxable Years Beginning After January 1, 2001 Enactment Assumed After June 30, 2001 \$ Millions			
	2001/2002	2002/2003	2003/2004
Irrigation System Improvements	-\$15	-\$20	-\$25

Any changes in employment, personal income, or gross state product that could result from this bill are not considered.

Tax Revenue Discussion

This estimate has been changed to reflect the reduction of the credit amount to 25% of the cost of improvements and limiting the amount of the credit to \$150 per acre. All the previous assumptions and parameters in the prior revenue analysis still apply.

**LEGISLATIVE STAFF CONTACT**

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 1054  
As Amended May 21, 2001

**AMENDMENT 1**

On page 2, revise lines 3 through 12 as follows:

For each taxable year beginning on or after January 1, 2001, and before January 1, 2006, there shall be allowed a credit against the "net tax" (as defined by Section 17039, an amount equal to 25% of the cost paid or incurred by the taxpayer, ~~not to exceed one hundred fifty dollars (\$150) per acre~~, for the purchase and installation of an irrigation system improvement that is placed in service in this state, is used in a business for the production of farm income, and is installed on land that is owned or leased by the taxpayer at the time of installation. The amount of the credit for any taxable year shall not exceed one hundred fifty dollars (\$150) for each acre (or portion thereof) of land in the parcel on which the irrigation system improvement is installed.

On page 4, revise lines 7 through 16 as follows:

For each taxable year beginning on or after January 1, 2001, and before January 1, 2006, there shall be allowed a credit against the "tax" (as defined by Section 23036, an amount equal to 25% of the cost paid or incurred by the taxpayer, ~~not to exceed one hundred fifty dollars (\$150) per acre~~, for the purchase and installation of an irrigation system improvement that is placed in service in this state, is used in a business for the production of farm income, and is installed on land that is owned or leased by the taxpayer at the time of installation. The amount of the credit for any taxable year shall not exceed one hundred fifty dollars (\$150) for each acre (or portion thereof) of land in the parcel on which the irrigation system improvement is installed.